

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

Charles Blackwell

Hon Judge:

Plaintiff,

Mag. Judge:

-vs-

Case:

Michael O'Connell,
In His Individual Capacity
Defendant

Case: 2:22-cv-11093

Assigned To : Parker, Linda V.

Referral Judge: Patti, Anthony P.

Assign. Date : 5/18/2022

Description: CMP CHARLES BLACKWELL V MICHAEL
O'CONNELL (SS)

COMPLAINT AND JURY DEMAND

Plaintiff Charles Blackwell, proceeding pro se, hereby files this Complaint
and states as follows:

JURISDICTIONAL ALLEGATIONS

1. Plaintiff Charles Blackwell is a resident in the Eastern District of Michigan.
2. Defendant Michael O'Connell is an employee of the City of Detroit Board of Ethics as a training/technology coordinator and resides and/or transacts business in Wayne County, Michigan which is in this Judicial District.
3. At all relevant times, Defendant O'Connell was acting under color of law and is being sued in his individual capacity.

4. Defendant O'Connell is not entitled to qualified or any other immunity because he knowingly and intentionally violated Plaintiff's clearly established First and Fourteenth Amendment constitutional rights to which any reasonable state actor would have known.
5. Venue is appropriate in this Court as all the transactions, events and occurrences which give rise to this action all took place in Wayne County, Michigan which is in this Judicial District.
6. This Court has jurisdiction over this matter pursuant to 28 USC § 1331 and 42 USC § 1983.

COMMON ALLEGATIONS

7. Plaintiff realleges paragraphs 1 through 6 word-for-word.
8. The City of Detroit Board of Ethics held a hybrid monthly meeting on May 18th, 2022, in which the public can attend and participate via Zoom.
9. The Chairperson of the Board of Ethics is Kristin Lusn and the Vice-Chair is David Jones.
10. This is a public meeting held under the Michigan Open Meetings Act.
11. Defendant O'Connell while acting under the color of the law as a City of Detroit employee and training/technology coordinator for the board of ethics was the assigned Zoom host for the May 18th, 2022, Board of Ethics meeting.

12. In his role as Zoom host, Defendant O'Connell has the authority to mute/unmute participants; turn on/off their camera's; admit/eject them from the Zoom public meeting.
13. Plaintiff Blackwell logged onto the May 18th, 2022, City of Detroit Board of Ethics meetings via Zoom under the pseudonym "Leon Farmer".
14. Plaintiff Blackwell turned on his camera on Zoom and made his Zoom avatar a picture that included a picture of City of Detroit Board of Ethics Chairperson Kristin holding Vice-Chairperson David Jones by a tie with the caption "Flunky Vice Chair David Jones." **EX A: Plaintiff Zoom Avatar.**
15. Defendant O'Connell while acting under the color of the law as the Zoom host of this meeting turned off Plaintiff Zoom camera depicting this unflattering avatar. **EX B: Zoom Screenshot Showing Stop Camera.**
16. A warning sign popped up stating "you cannot start your video because the host has stopped it." **See Ex B**
17. Fellow member of the public Akil Alvin was allowed to keep his camera on showing an avatar depicting the logo/symbol of "**DDM**". **See Ex B**

18. At no point did Defendant O'Connell turn off the camera of member of the public Akil Alvin.

COUNT I

FIRST AMENDMENT RETALIATION AND VIEWPOINT DISCRIMINATION

19. Plaintiff realleges paragraphs 1 through 16 word-for-word.

20. The First Amendment to the U.S. Constitution guarantees freedom of the press and freedom of speech.

21. The Supreme Court has recognized that the First Amendment protects anonymous speech. *Buckley v. American Constitutional Law Found.*, 525 U.S. 182, 200, 119 S.Ct. 636, 142 L.Ed.2d 599 (1999) (invalidating, on First Amendment grounds, state statute requiring initiative petitioners to wear identification badges).

22. Plaintiff had a First Amendment right to log onto a public meeting of the City of Detroit using the anonymous pseudonym of Leon Farmer.

23. The First Amendment protects not only the expression of ideas through printed or spoken words, but also symbolic speech— nonverbal "activity ... sufficiently imbued with elements of communication." *Spence v. Washington*, 418 U.S. 405, 409, 94 S.Ct. 2727, 2730, 41 L.Ed.2d 842 (1974).

24. Plaintiff Zoom avatar at the May 18th, 2022, Board of Ethics meeting was expressive speech protected by the First Amendment.
25. It is well-settled that the First Amendment's protection extends to the *Internet. Reno v. ACLU*, 521 U.S. 844, 870, 117 S.Ct. 2329, 138 L.Ed.2d 874 (1997)
26. Plaintiff engaged in protected activity under the First Amendment when he logged onto the May 18th, 2022, Board of Ethics Meeting and made his avatar an unflattering image of Board of Ethics Vice-Chair David Jones.
27. Defendant O'Connell while acting under the color of the law as the Board of Ethics Zoom host retaliated and engaged in viewpoint discrimination against the Plaintiff for the sole reason of the Plaintiff avatar on May 18th, 2022.
28. Defendant O'Connell let fellow member of the public Akil Alvin use their camera to express nonverbal speech and symbols but turned off the Plaintiff camera to prevent the Plaintiff from further expressing his non-verbal speech based on the unflattering nature of the Plaintiff avatar. **See Ex B**

29. Qualified immunity does not apply because any reasonable state actor would know that retaliating against Plaintiff because of his protected activity was a violation of his clearly established First Amendment rights.

30. As a direct and proximate result of Defendant O'Connell wrongful acts and omissions, Plaintiff suffered non-economic injuries, including but not limited to, mental anguish, emotional distress, humiliation, mortification, outrage, embarrassment, anxiety, and other damages which will continue throughout and beyond this litigation.

ACCORDINGLY, Plaintiff asks this Court to enter judgment against Defendant O'Connell for damages in excess of \$75,000 or whatever amount to which Plaintiff is entitled, together with punitive, exemplary, and nominal other damages provided by statute, law, and good conscience.

RELIEF REQUESTED

Plaintiff demands judgment against Defendants as follows:

A. LEGAL RELIEF

- a. Compensatory damages for Plaintiff's past and future economic and non-economic damages in whatever amount Plaintiff are found to be entitled.
- b. Exemplary damages in whatever amount Plaintiff is found to be entitled.

- c. Liquidated damages in whatever amount Plaintiff is found to be entitled.
- d. Punitive damages in whatever amount Plaintiff is found to be entitled.
- e. nominal damages.

B. EQUITABLE RELIEF

- a. A declaratory judgment that Defendant have violated Plaintiff's First Amendment rights; and
- b. Whatever equitable relief appears appropriate at the time of final judgment.

/s/CharlesBlackwell

22655 Fairmont Dr
Apt 102
Farmington Hills, MI, 48335
Cblack618@gmail.com
313-739-3597

Respectfully submitted

Dated: May 18th, 2022

JURY DEMAND

Plaintiff Charles Blackwell demands a jury trial of this cause of action.

INDEX OF EXHIBITS

Ex A: Plaintiff Zoom Avatar

EX B: Zoom Screenshot Showing Stop Camera

Ex A: Plaintiff Zoom Avatar

FLUNKY VICE CHAIR

DAVID



EX B: Zoom Screenshot Showing Stop Camera

The screenshot displays a Zoom video conference interface. The main window shows a grid of participants. At the top, a status bar indicates "Live transcription (closed captioning) has been enabled" and "Who can see this transcript? Recording on". The grid includes participants such as Leon Farmer, Robert Wall, Michael Rafferty, David Jones, ESQ., Dawn Widman, Vanessa Johnson, Lisa Gardner, Taura Brown, and Michelle Parizon. A central error message box states: "You cannot start your video because the host has stopped it". On the right side, a chat window is open, showing a list of participants and a message history. The chat window includes a search bar, a list of participants with their initials, and a message history showing a sequence of messages, including a direct message to Michael O'Connell and a message from Taura Brown to Everyone. The bottom of the interface shows the Zoom toolbar with icons for Mute, Start Video, Participants, Chat, Share Screen, Live Transcript, Reactions, and Apps.

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Charles Blackwell

DEFENDANTS

Michael O'Connell

(b) County of Residence of First Listed Plaintiff Oakland
(EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed Defendant Wayne
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

(c) Attorneys (Firm Name, Address, and Telephone Number)

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|---------------------------------------|---------------------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input checked="" type="checkbox"/> 1 | <input checked="" type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: [Nature of Suit Code Descriptions.](#)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark <input type="checkbox"/> 880 Defend Trade Secrets Act of 2016 SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit (15 USC 1681 or 1692) <input type="checkbox"/> 485 Telephone Consumer Protection Act <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input checked="" type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from Another District (specify) ☐ 6 Multidistrict Litigation - Transfer ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

42 USC 1983

Brief description of cause:

First Amednment Retaliation and Censorship

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$ 80,000.00

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

May 18, 2022

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

1. Is this a case that has been previously dismissed?

☐ Yes
☒ No

If yes, give the following information:

Court: _____

Case No.: _____

Judge: _____

2. Other than stated above, are there any pending or previously discontinued or dismissed companion cases in this or any other court, including state court? (Companion cases are matters in which it appears substantially similar evidence will be offered or the same or related parties are present and the cases arise out of the same transaction or occurrence.)

☐ Yes
☒ No

If yes, give the following information:

Court: _____

Case No.: _____

Judge: _____

Notes :
